

# TEXT AMENDMENT STAFF REPORT



Hearing Date: NA

Case File #: TA-16-13

General Description: Modify the definition of impervious surface to exclude properly installed Number 57 stone and trails which conform to NC General Statute NCGS 143-214.7.

☒ Town Initiated

☐ Citizen Initiated

Applicant(s): Town of Sunset Beach

## APPLICATION OVERVIEW:

The Sunset Beach Planning & Inspections Department has initiated an application, at the direction of the Planning Board, to amend the definition of Impervious Surface to align with State statutes. Specifically, this would allow properly installed Number 57 and trails with adequate hydraulic conductivity (water can seep into the soil) to satisfy pervious surface requirements.

## STAFF COMMENTARY

Number 57 stone is roughly three-quarter inches (3/4") in size. Most commonly it is used for base material on asphalt/concrete driveways. Essentially gravel, the stone is defined by the American Society for Testing Materials (ASTM), a body of academic and professionals which designates the proper usages for materials in a variety of fields. The State has updated the definition (NCGS 143-214.7) of impervious to read:

"a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; or a trail as defined in G.S. 143B-135.94B that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour)."

The NC Department of Energy, Mineral and Land Resources gave the following advice on how to interpret that statute:

“An area of Number 57 stone (as designated by ASTM) shall not be counted as built-upon area if it meets all the following criteria:

1. The 57 stone is not mixed with other aggregate material;
2. The 57 stone is laid at least four inches thick;
3. The 57 stone is laid over a geotextile fabric;
4. The 57 stone and geotextile fabric is not placed on top of an impervious material, such as crush-and-run or asphalt;
5. The 57 stone area does not use an underdrain system that discharges without treatment;
6. The geotextile fabric is permeable and comprised of non-biodegradable textiles; and
7. The soil on which the 57 stone will be placed (subgrade) will not be mechanically compacted prior to installation.

North Carolina General Statute 143B-135.94B defines “trail” as:

"Trail" means:

- a. Park trail. - A trail designated and managed as a unit of the North Carolina State Parks System under Part 32 of this Article.
- b. Designated trail. - A trail designated by the Secretary pursuant to this Part as a component of the State trails system and that is managed by another governmental agency or by a corporation listed with the Secretary of State.
- c. A State scenic trail, State recreation trail, or State connecting trail under G.S. 143B-135.96 when the intended primary use of the trail is to serve as a park trail or designated trail.
- d. Any other trail that is open to the public and that the owner, lessee, occupant, or person otherwise in control of the land on which the trail is located allows to be used as a trail without compensation, including a trail that is not designated by the Secretary as a component of the State trails system.”

<b>PROPOSAL</b>
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The proposed amendment is attached and subsequently amended.

## **PLANNING BOARD SUMMARY**

**Action:**

- (A)     X     The Planning Board hereby recommends approval of the proposed amendment to the Unified Development Ordinance and finds that it is (i) consistent with Policy 66C of the Town’s comprehensive plan (2010 Town of Sunset Beach CAMA Land Use Plan) stating that “The Town shall continue to update its stormwater ordinances to remain consistent with changes in the County stormwater ordinance,” and finds (ii) that it is in the public interest because it sensibly improves development opportunities in an environmentally acceptable way and (iii) follows language similar to NCGS 143B-214.7.
- (B)          The Planning Board hereby recommends denial of the proposed amendment to the Unified Development Ordinance and finds that (i) it is not consistent with the Town’s comprehensive plan (2010 Town of Sunset Beach CAMA Land Use Plan) and/or (ii) it is not in the public interests for the following reasons: \_\_\_\_\_.

Recommend Approval (A)   X   Recommend Denial (B)           

(For 4 Against 0 Abstained       )

### Commentary:

**2016-10-06:** The Planning Board unanimously recommends approval of the attached amendment.

## TOWN COUNCIL SUMMARY

### Action:

- (A) \_\_\_\_\_ The Town Council hereby approves the proposed amendment to the Unified Development Ordinance and finds that it is (i) consistent with Policy 66C of the Town’s comprehensive plan (2010 Town of Sunset Beach CAMA Land Use Plan) stating that “The Town shall continue to update its stormwater ordinances to remain consistent with changes in the County stormwater ordinance,” and finds (ii) that it is in the public interest because it sensibly improves development opportunities in an environmentally acceptable way and (iii) follows language similar to NCGS 143B-214.7.
- (B) \_\_\_\_\_ The Town Council hereby denies of the proposed amendment to the Unified Development Ordinance and finds that (i) it is not consistent with the Town’s comprehensive plan (2010 Town of Sunset Beach CAMA Land Use Plan) and/or (ii) it is not in the public interests for the following reasons:  
\_\_\_\_\_.

Approved \_\_\_\_\_ Denied \_\_\_\_\_

(For \_\_\_\_\_ Against \_\_\_\_\_ Abstained \_\_\_\_\_)

### Commentary:

Appendix A is amended as follows, with additions underlined and deletions ~~stricken through~~.

### ***Impervious Surface***

Any surface which in whole or in part, restricts or prevents the natural absorption of water into the ground. Such surfaces may include, but not be limited to compacted earth (such as marl and coquina), gravel, concrete, asphalt, or other paving material, and all areas covered by the footprint of buildings or structures. ~~Uncovered wooden slatted decks and the water area of a swimming pool are considered pervious.~~ The following are considered pervious surfaces: uncovered wooden slatted decks; the water area of a swimming pool; a surface of number 57 stone, as designated by ASTM International, laid at least four inches thick over a geotextile fabric; or a trail as defined in GS 143B-135.94B that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour).